IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 10.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Writ Appeal No.588 of 2002

1.R.Murugesan

2.R.Sivapragasam ... Appellants/
Petitioners.

Vs.

1.The Special Tahsildar,
(Adi Dravidar Welfare)
Chengam,
Thiruvannamalai District.
Pin.606 701.

2.The Government of Tamil Nadu,
rep. by its Secretary,
Backward Classes and Most
Backward Classes Welfare
Department, Fort St. George,
Chennai-600 009. .. Respondents/
Respondents.

Writ appeal filed under Clause 15 of the Letters Patent against the order dated 11.09.2001 made in W.M.P.No.3258 of 1998 in W.P.No.2230 of 1998 Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records of the second respondent in G.O.[3-D] No.79, Backward Classes and Most Backward Classes Welfare, 31st October, 1995 published in Gazette on 29.11.95 and G.O.[3-D] No.75, Backward classes and Most Backward Classes welfare 26.12.1996 published in Govt. Gazette on 26.12.1996 and quash the same.

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For Appellant : Mr.Pa.Kadirvel

For Respondents : Mrs.D.Geetha,
Addl. Government Pleader

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JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal is directed against the order of the learned single Judge dated 11.09.2001 made in W.M.P.No.3258 of 1998 in W.P.No.2230 of 1998, in and by which, the learned single Judge vacated the interim order granted on 24.02.1998.

2. Heard learned counsel appearing for the appellants as well as the learned Additional Government Pleader for the respondents.

3. It is brought to our notice that even at the time of entertaining the writ petition, the learned single Judge has granted limited stay of dispossession. Again, when the stay petition came up for hearing on 24.02.1998, another learned single Judge extended the limited stay of dispossession till 17.03.1998 to enable the learned Government Pleader to get instructions. Though the respondents have filed a counter affidavit which is available in the typed set of papers (vide pages 19 to 24), there is no specific information to the effect whether possession was taken by the Department. On the other hand, in the penultimate paragraph, it is stated as follows :

> " In view of the stay granted further proceedings in regard to issue of house site pattas to the beneficiaries concerned stand still."

The above reference makes it clear that the petitioners secured interim stay initially, and the said order was extended till 11.09.2001, when the learned single Judge has passed the impugned order, declining to extend the same.

4. In view of the assertion of the petitioners/appellants that possession of the land in question is with them and in the absence of a specific information in the counter filed by the respondents, we are of the view that the limited interim order viz., stay of dispossession has to be continued till the disposal of the writ petition. To this extent, we modify the order of the learned single Judge dated 11.09.2001 and the writ appeal is allowed to this extent. No costs.

5. Inasmuch as the writ petition is of the year 1998 and also in view of the fact that the respondents have filed a counter affidavit, the Registry is directed to include the writ petition for final hearing before the learned single Judge dealing with the subject immediately.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

raa

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To

1.The Special Tahsildar,
(Adi Dravidar Welfare)
Chengam,
Thiruvannamalai District.
Pin.606 701.

2.The Secretary,
Government of Tamil Nadu,
Backward Classes and Most
Backward Classes Welfare
Department, Fort St. George,
Chennai-600 009.

3. The Section Officer,
Writ Section, High Court,
Madras 104.
[Directed to include the Writ Petiton for Final Hearing]

+ 1 CC to the Government Pleader SR NO 35902

W.A.No.588 of 2002
10.08.2006.

vs(co)
gp/23.8.

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